




*Report to the  
Auburn City Council*

Action Item

6

Agenda Item No.

City Manager's Approval

**To:** Mayor and City Council Members  
**From:** Mark D'Ambrogio, Fire Chief   
**Date:** March 25, 2013  
**Subject:** Ordinance Amending Auburn Municipal Code; Section 100.87 of Chapter 100 of Title IX; Fuel Modification Standards, Requirements- First Reading.

**The Issue**

Shall the Council amend Auburn Municipal Code Section 100.87 of Chapter 100 of Title IX; this section specifically addresses Fuel Modification Standards including fire hazard reduction and defensible space?

**Conclusion and Recommendation**

Staff recommends the City Council wave full reading and introduce by title only an ordinance to amend the Auburn Municipal Code Section 100.87 of Chapter 100 of Title IX; Fuel Modification Standards, Requirements.

**Background**

In May of 2010 the City Council implemented an Ordinance change to the Auburn Municipal Code; Section 100.87 of Chapter 100 of Title IX; Fuel Modification Standards, Requirements, specifically relating to defensible space for properties one (1) acre or greater in size located in the Very High Fire Hazard Severity Zone or High Fire Hazard Severity Zone. In addition, a three (3) year "sunset" clause was included of which will terminate subsection (B) in May of 2013.

The change implemented in 2010 requires that a property owner of a parcel one (1) acre or greater in size located in the Very High Fire Hazard Severity Zone or High Fire Hazard Severity Zone provide at minimum 100 feet of defensible space from any structure even if such structure is located on an adjoining property. And/or provide permissions to the adjoining property

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owner to establish and maintain defensible space around their improved structure when such space or portions thereof is located on such a neighboring property.

This subsection (B) will terminate May 24, 2013 as implemented by Ordinance in May 2010.

Since the change in 2010 there have been two (2) occasions this Ordinance was fully applied due to non-compliance and full abatement conducted through due process. In both cases it was the same property owners who were fully aware of the requirements and ramifications of non-compliance once in 2011 and again in 2012. This has been the extreme application of the Ordinance.

In many situations property owners that so desired to achieve maximum defensible space for their structures informed their neighbor of the desired intent. The majority of the time the notified property owner conducted such work and fulfilled the request of the neighboring property owner. In a few cases property owners that did not want to conduct such work granted permissions to the neighboring property owner to perform the work of which occurred. In either case, fire department personnel worked with the property owners towards a positive solution of which achieved the intended desired result, fuel reduction/defensible space.

Although implemented to fullest capacity only twice in a 3 year period, it is not the intent of the Ordinance to be used to the fullest all the time but to offer alternatives to property owners to assist one another in achieving desired fuel reduction on their properties. Fire department personnel utilize this Ordinance as a tool to achieve desired results in preparing our community against wildfire disaster.

The action requested is to eliminate Section (B); subsection (10), of which removes the "sunset" language and will keep the Ordinance in effect at all times.

**Alternatives Available to Council; Implications of Alternatives**

1. Conduct a public hearing and introduce by a first reading, title only;
2. Take no action, the current Municipal Code language will terminate and revert back to subsection A only;
3. Propose additional language that includes a defined period for termination.

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**Fiscal Impact**

There are no direct City costs as a result of this proposed change.

**Attachment(s)**

ORDINANCE NO. 10-03

(Original Ordinance change from May 24, 2010)

ORDINANCE NO. 10-03

AN ORDINANCE AMENDING THE AUBURN MUNICIPAL CODE BY AMENDING TITLE IX, CHAPTER 100;SECTION 100.87, FUEL MODIFICATION STANDARDS, REQUIREMENTS.

WHEREAS, the City Council of the City of Auburn does hereby find that there is need to enforce regulations to regulate and govern the safeguarding of life and property from fire hazards and from conditions hazardous to life or property in the development and occupancy of property within the City;

WHEREAS, the City Council does hereby further find that in accordance with section 15061(b)(3) of the California Code of Regulations, the adoption of local amendments to the California Codes, and amending the Auburn Municipal Code are exempt from the provisions of the California Environmental Quality Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1**

Section 100.87 of Chapter 100 of Title IX of the Auburn Municipal Code is amended to read as follows:

**Sec. 100.87 Fuel Modification Standards, Requirements**

(A) Reduction of Fire Hazard. Any person who owns, leases, controls, operates, or maintains any dwelling or structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass covered land, or any land that is covered with flammable material, which area or land is within fire hazard severity zone shall at all times do all of the following:

(1) Defensible Space. Maintain around and adjacent to any building or structure defensible space by removing and clearing away, for a distance of not less than 100 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible

1 growth. This does not apply to ornamental shrubbery or similar plants  
2 that are used as groundcover that do not readily support ignition of fire,  
3 and if they do not form a means of rapidly transmitting fire from the  
4 growth to any building or structure. Trees shall be permitted within the  
5 defensible space provided that the horizontal distance between the  
6 crowns of adjacent trees is not less than 10'. Deadwood and litter shall  
7 be regularly removed from trees. Tree crowns extending to within 10' of  
8 any structure shall be pruned to maintain a minimum horizontal  
9 clearance of 10'. Tree crowns within the defensible space shall be pruned  
10 to remove limbs located less than 6' above the ground surface. (2)

11 Additional Defensible Space. Maintain around and adjacent to any  
12 such building or structure additional defensible space by removing all  
13 brush, flammable vegetation, or combustible growth which is located  
14 from 100 feet to 200 feet from any such building or structure or to the  
15 property line, whichever is nearer, as may be required by the Fire Chief if  
16 he/she finds that, because of extra hazardous conditions, such  
17 application around the building or structure is needed to provide  
18 reasonable fire safety. Grass and other vegetation located more than 100  
19 feet to 200 feet from the building or structure and less than 18 inches in  
20 height above the ground may be maintained where necessary to stabilize  
21 the soil and prevent erosion.

22 (3) Trees. Remove that portion of any tree that extends within 10 feet  
23 of the outlet of any chimney or stovepipe.

24 (4) Dead or Dying Wood. Maintain any tree adjacent to or overhanging  
25 any building free of dead or dying wood.

26 (5) Vegetative Growth. Maintain the roof of any structure free of  
27 leaves, needles, or other dead vegetative growth.

28 (6) Chimney and Stovepipe. Provide and maintain at all times a screen  
over the outlet of every chimney or stovepipe that is attached to any

1 fireplace, stove, or other device that burns any solid or liquid fuel. The  
2 screen shall  
3 be constructed of nonflammable material with openings of not more than  
4 one-half inch in size.

5 (7) Disposal of Flammable Vegetation and Fuels. Disposal, including  
6 chipping, burying, burning or removal to a landfill site approved by the  
7 local jurisdiction, of flammable vegetation and fuels caused by site  
8 development and construction, road and driveway construction, and fuel  
9 modification shall be completed prior to completion of road construction  
10 or final inspection of a building permits.

11 (8) Greenbelts. Subdivisions and other developments, which propose  
12 greenbelts as a part of the development plan, shall locate said greenbelts  
13 strategically as a separation between wildland fuels and structures. The  
14 locations shall be approved by the fire department.

15 (9) Fuel Breaks. Fuel breaks such as shaded fuel breaks, vegetation  
16 clearance, and other vegetation modification methods shall be required  
17 as condition of development for such open space areas and areas that  
18 interface between wildland fuels and structures.

19 (B) Additional Reduction of Fire Hazard. Any person who owns, leases,  
20 controls, operates, or maintains any dwelling, structure, or land in,  
21 upon, or adjoining any mountainous area, forest-covered land, brush-  
22 covered land, grass covered land, or any land that is covered with  
23 flammable material, which area or land is within a Very High Fire Hazard  
24 Severity Zone or High Fire Hazard Severity Zone and one (1) acre or  
25 greater in size. ("Responsible Person") shall at all times do all of the  
26 following:

27 (1) Defensible Space. Maintain around and adjacent to any building or  
28 structure defensible space by removing and clearing away, for a distance  
of not less than 100 feet on each side thereof, all flammable vegetation

1 or other combustible growth. This does not apply to ornamental  
2 shrubbery or similar plants that are used as groundcover that do not  
3 readily support ignition of fire, and if they do not form a means of rapidly  
4 transmitting fire from the growth to any building or structure. Trees shall  
5 be permitted within the defensible space provided that the horizontal  
6 distance between the crowns of adjacent trees is not less than 10'.  
7 Deadwood and litter shall be regularly removed from trees. Tree crowns  
8 extending to within 10' of any structure shall be pruned to maintain a  
9 minimum horizontal clearance of 10'. Tree crowns within the defensible  
10 space shall be pruned to remove limbs located less than 6' above the  
11 ground surface. In addition, Responsible Persons shall:

12 (a) Maintain defensible space on property(s) within 100' of any  
13 building or structure, whether that building or structure is located on the  
14 property or on a neighboring property.

15 (b) A Responsible Person's may satisfy the obligation to maintain 100'  
16 of defensible space around a structure located on a neighboring property  
17 by providing written consent, in a form reasonably acceptable to the Fire  
18 Chief, to the owner(s) or occupant(s) of the structure to be protected to  
19 enter Responsible Person's land to perform the work necessary to  
20 establish and maintain 100' of defensible space around the structure.

21 (2) Additional Defensible Space. Maintain around and adjacent to any  
22 such building or structure additional defensible space by removing all  
23 brush, flammable vegetation, or combustible growth which is located  
24 from 100 feet to 200 feet from any such building or structure, as may be  
25 required by the Fire Chief if he/she finds that, because of extra  
26 hazardous conditions, such application around the building or structure is  
27 needed to provide reasonable fire safety. Grass and other vegetation  
28 located more than 100 feet to 200 feet from the building or structure and

less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion. Should the Fire Chief determine that more than 100' of defensible space (up to 200') is required for any structure, the duty to establish and maintain that defensible space shall be borne by the Responsible Party with respect to the land to be maintained under paragraph (1) above whether or not the structure to be protected is on property owned or controlled by the Responsible Person.

(3) Trees. Remove that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe.

(4) Dead or Dying Wood. Maintain any tree adjacent to or overhanging any building free of dead or dying wood.

(5) Vegetative Growth. Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

(6) Chimney and Stovepipe. Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than one-half inch in size.

(7) Disposal of Flammable Vegetation and Fuels. Disposal, including chipping, burying, burning or removal to a landfill site approved by the local jurisdiction, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to completion of road construction or final inspection of a building permits.

(8) Greenbelts. Subdivisions and other developments, which propose greenbelts as a part of the development plan, shall locate said greenbelts



1 strategically as a separation between wildland fuels and structures. The  
2 locations shall be approved by the fire department.

3 (9) Fuel Breaks. Fuel breaks such as shaded fuel breaks, vegetation  
4 clearance, and other vegetation modification methods shall be required  
5 as condition of development for such open space areas and areas that  
6 interface between wildland fuels and structures.

7 (10) This section; B, will terminate on the date of May 24, 2013;  
8

9 (C) Exceptions to Sections A and B. These sections of this ordinance  
10 shall not apply to any land or water area acquired or managed for one or  
11 more of the following purposes or uses:

12 (1) Habitat for endangered or threatened species, or any species that  
13 is a candidate for listing as an endangered or threatened species by the  
14 state or federal government.

15 (2) Open space lands that are environmentally sensitive  
16 parklands.

17 (3) Other lands having scenic values and declared by the City of  
18 Auburn or by state or federal law.

19 (a) This exemption applies whether the land or water area is held in  
20 fee title or any lesser interest. This exemption applies to any public  
21 agency, any private entity that has dedicated the land or water  
22 areas to one or more of those purposes or uses, or any  
23 combination of public agencies and private entities making that  
24 dedication.

25 (b) This section shall not be construed to prohibit the use of properly  
26 authorized prescribed burning to improve the biological function of  
27 land or to assist in the restoration of desired vegetation.

28 (c) In the event that any lands adjacent to any land or water area  
described in subdivision (a) are improved such that they are

1 subject to Government Code Section 51182, the obligation to  
2 comply with Section 51182 shall be with the person owning,  
3 leasing, controlling, operating, or maintaining the occupied  
4 dwelling or occupied structure on the improved lands. All  
5 maintenance activities and other fire prevention measures required  
6 by Section 51182 shall be required only for the improved lands,  
7 not the land and water areas described in subdivision (a).

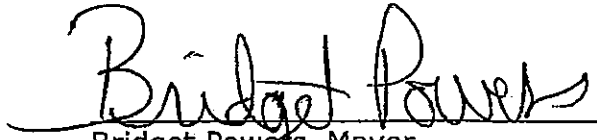
8 **Section 2.**

9 Pursuant to Government Code Section 36933, the City Clerk is authorized to  
10 prepare a summary of this ordinance to be published and posted in lieu of publication  
11 and posting of the entire text of the ordinance.  
12

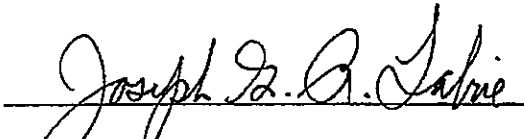
13  
14 **Section 3.**

15 If any part of this ordinance is held to be invalid, such invalidity shall not  
16 affect any other provision which reasonably can be given effect without regard to the  
17 invalid provision.  
18

19 DATED: May 24, 2010  
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21   
22  
23 Bridget Powers, Mayor

24 ATTEST:

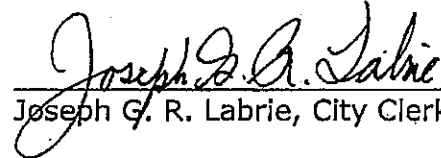
25   
26 Joseph G. R. Labrie, City Clerk  
27  
28

1 I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify that the  
2 foregoing resolution was duly passed at a regular meeting of the City Council of the  
3 City of Auburn held on the 24th day of May 2010 by the following vote on roll call:

4 Ayes: Holmes, Hanley, Kirby, Nesbitt, Powers

5 Noes:

6 Absent:

7   
8 Joseph G. R. Labrie, City Clerk

ORDINANCE NO. 13-

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4 clearance, and other vegetation modification methods shall be required  
5 as condition of development for such open space areas and areas that  
6 interface between wildland fuels and structures.

7  
8 (C) Exceptions to Sections A and B. These sections of this ordinance  
9 shall not apply to any land or water area acquired or managed for one or  
10 more of the following purposes or uses:

- 11 (1) Habitat for endangered or threatened species, or any species that  
12 is a candidate for listing as an endangered or threatened species by the  
13 state or federal government.

- 14 (2) Open space lands that are environmentally sensitive  
15 parklands.

- 16 (3) Other lands having scenic values and declared by the City of  
17 Auburn or by state or federal law.

18 (a) This exemption applies whether the land or water area is held in  
19 fee title or any lesser interest. This exemption applies to any public  
20 agency, any private entity that has dedicated the land or water  
21 areas to one or more of those purposes or uses, or any  
22 combination of public agencies and private entities making that  
23 dedication.

24 (b) This section shall not be construed to prohibit the use of properly  
25 authorized prescribed burning to improve the biological function of  
26 land or to assist in the restoration of desired vegetation.

27 (c) In the event that any lands adjacent to any land or water area  
28 described in subdivision (a) are improved such that they are  
subject to Government Code Section 51182, the obligation to

1 comply with Section 51182 shall be with the person owning,  
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3 dwelling or occupied structure on the improved lands. All  
4 maintenance activities and other fire prevention measures required  
5 by Section 51182 shall be required only for the improved lands,  
6 not the land and water areas described in subdivision (a).

7 **Section 2.**

8 Pursuant to Government Code Section 36933, the City Clerk is authorized to  
9 prepare a summary of this ordinance to be published and posted in lieu of publication  
10 and posting of the entire text of the ordinance.  
11

12  
13 **Section 3.**

14 If any part of this ordinance is held to be invalid, such invalidity shall not  
15 affect any other provision which reasonably can be given effect without regard to the  
16 invalid provision.  
17

18 DATED: TBD April, 2013  
19  
20

21  
22 \_\_\_\_\_  
Kevin Hanley, Mayor

23 ATTEST:  
24  
25 \_\_\_\_\_

26 Stephanie L. Snyder, City Clerk  
27  
28

1 I, Stephanie L. Snyder , City Clerk of the City of Auburn, hereby certify that  
2 the foregoing resolution was duly passed at a regular meeting of the City Council of  
3 the City of Auburn held on the TBD day of April 2013 by the following vote on roll  
4 call:

5 Ayes:

6 Noes:

7 Absent:

8  
9 Stephanie L. Snyder, City Clerk

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